

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITIN NO.6018 OF 2006

Kallappa B. Koli Petitioner
V/s.
Narsu A. Bogade & Ors. Respondents

Mr.Ashutosh Gole for the Petitioner.
Mr.Vijay Killedar for Respondent No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH JANUARY, 2007.

P.C. :

1. The Petitioner has not even filed an Appeal against the decree. The other Defendants have filed the Appeal. It is true that the Plaintiff claims title through other Defendants. However, in the facts and circumstances of this case, the application for interim reliefs ought to be granted only in the event of this Petitioner challenging the impugned order and judgment himself. Further there is no question of any other party forcibly obtaining possession from the Petitioner assuming that the Petitioner is in possession. Mr.Killedar, the learned counsel appearing on behalf of Respondent No.1 admits that the decree is only declaratory and does not require possession to be handed over by the Petitioner

assuming that the Petitioner is in possession. The case of Respondent No.1 is that the Petitioner is not in possession.

2. In the event of the Petitioner filing an Appeal, he is at liberty to take out an application for interim reliefs which will be decided on its own merits. Needless to clarify that all the rights and contentions between the parties including in any Appeal or other proceedings that may be filed, are kept open.

3. In the circumstances, the Writ Petition is accordingly disposed of.